

OCA FILE leg

OCA87-6138
21 December 1987

MEMORANDUM FOR: Chief, Logistics & Procurement Law Division/OGC
Chief, Procurement Management Staff/OL

FROM: [] Legislation Division
Office of Congressional Affairs

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SUBJECT: Commercial Activities Contracting Act of 1987,
S. 909

1. Attached for your review and comment is a copy of the above-captioned bill, which relates to contract savings under Office of Management and Budget Circular A-76. Monetary savings are to be returned to the Treasury and personnel savings are reflected in a reduction in the number of employees.

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2. The Senate has recently held hearings on this bill. Please contact me on [] at your earliest convenience should we need to take steps to protect the Agency's interests.

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Attachment

OCA/Leg/[] (21 December 1987)

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LEGI-SLATE Report for the 100th Congress

Fri, Dec 18, 1987 9:58am (EST)

Report for S.909 Commercial Activities Contracting Act of 1987
As introduced in the Senate
Complete Text of this version

II

100th CONGRESS
1st Session

S. 909

To require that all amounts saved as a result of Federal Government contracting pursuant to Office of Management and Budget Circular A-76 be returned to the Treasury, that manpower savings resulting from such contracting be made permanent, and that employees of an executive agency be consulted before contracting determinations by the head of that executive agency are made pursuant to that circular.

IN THE SENATE OF THE UNITED STATES

April 3 (legislative day, March 30), 1987

Mr. Reid (for himself, Mr. Sarbanes, and Mr. Pryor) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To require that all amounts saved as a result of Federal Government contracting pursuant to Office of Management and Budget Circular A-76 be returned to the Treasury, that manpower savings resulting from such contracting be made permanent, and that employees of an executive agency be consulted before contracting determinations by the head of that executive agency are made pursuant to that circular.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Activities Contracting Act of 1987".

SEC. 2. ACCOUNTING FOR SAVINGS RESULTING FROM FEDERAL GOVERNMENT CONTRACTING UNDER OMB CIRCULAR A-76.

(a) Savings To Be Returned to the Treasury.--(1) Not more than 60 days after the beginning of each fiscal year, the head of each executive agency shall pay into the General Fund of the Treasury the amount determined under paragraph (2).

(2) At the beginning of each fiscal year, the head of each executive agency shall determine the total amount saved by that executive agency as a result of converting during the preceding fiscal year to contractor performance any commercial activity which, during the preceding fiscal year--

(A) was previously performed by civilian employees of that executive agency; or

(B) was previously performed for or on behalf of that executive agency by members of the uniformed services.

(b) Civilian Employee Savings.--(1) Whenever an executive agency converts to contractor performance any commercial activity, the total number of civilian employees authorized for that executive agency in the fiscal year in which the conversion takes place shall be reduced by the number of civilian employees of that executive agency required to perform that commercial activity on a full-time basis (including the full-time equivalent of the number of civilian employees of that executive agency required to perform such activity on less than a full-time basis).

(2) The Director of the Office of Management and Budget, after consulting with the head of the executive agency concerned, shall determine the amount of any reduction in the authorized number of civilian employees of that executive agency pursuant to paragraph (1).

(c) Uniformed Services End Strengths.--(1) Whenever an executive agency converts to contractor performance any commercial activity previously performed for or on behalf of that executive agency by members of a uniformed service, the end strength authorized for that uniformed service at the end of the fiscal year in which the conversion takes place shall be reduced by the number of members of that uniformed service required to perform that commercial activity on a full-time basis (including the full-time equivalent of the number of members of that uniformed service required to perform such activity on less than a full-time basis).

(2) The Secretary concerned shall determine the amount of any reduction in the authorized end strength of a uniformed service pursuant to paragraph (1).

SEC. 3. PARTICIPATION OF FEDERAL EMPLOYEES IN DETERMINATIONS UNDER OMB A-76.

(a) In General.--Each officer or employee of an executive agency responsible for determining under Office of Management and Budget Circular A-76 whether to convert to contractor performance any commercial activity of that executive agency--

(1) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with civilian employees of the executive agency who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

(2) may consult with such employees on other matters relating to that determination.

(b) Consultation Procedures.--(1) In the case of employees of an executive agency represented by a labor organization accorded exclusive recognition under section 7111 of title 5, United States Code, consultation with representatives of that labor organization shall satisfy the consultation requirement in subsection (a).

(2) In the case of employees of an executive agency other than employees referred to in paragraph (1), consultation with appropriate representatives of

those employees shall satisfy the consultation requirement in subsection (a).
(c) Regulations.--The Administrator of the Office of Federal Procurement Policy shall issue regulations to carry out this section. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in subsection (b)(2) for purposes of consultation required by subsection (a).

SEC. 4. DEFINITIONS.

In this Act:

(1) The term "executive agency" has the same meaning as is provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)

(2) The term "Secretary concerned" has the same meaning as is provided in section 101 of title 37, United States Code.

(3) The term "uniformed service" means any of the uniformed services named in section 101 of title 37, United States Code.
